

SECTION 10. MILITARY AND VETERANS MATTERS

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| 10-1 INTRODUCTION |(See MIOG, Part 1, 67-3.9.)|

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Federal law confers certain rights upon ex-military personnel involving preference in appointment and retention, and in regard to adverse personnel actions; as well as reinstatement rights in their jobs following military service. The sources of the rights as to appointment, retention, and adverse actions are the Veterans' Preference Act of 1944, as amended, and the Veterans Readjustment Benefits Act of 1966. The source of the job reinstatement rights is the Military Selective Service Act of 1967. Any question relating to an interpretation of the statutes or to the status or rights of veterans or ex-military personnel should be referred to FBIHQ.

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10-2 VETERANS' COUNSELOR

Bureau's Personnel Division has a veterans' counselor's office where ex-military personnel and employees facing military service may receive specialized advice on their problems.

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| 10-3 APPOINTMENT |(See MIOG, Part 1, 67-9.7.16.)|

Veterans are entitled to have five points added to their scores in examinations for government jobs, or ten points if they are disabled, provided they first make a passing grade in the examinations. Certain close relatives of veterans sometimes can qualify for the ten-point preference in the veteran's stead. The type of preference that is to be afforded veterans or close relative of veterans is determined by FBIHQ in accordance with federal regulations. In general, veterans' preference entitles an applicant

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to preferential appointive consideration, whether or not a numerical rating is given. For details as to how Bureau applicant registers are maintained so as to assure the granting of appropriate veterans' preference, see MIOG, Part 1, Section 67-2.6.

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10-4 RETENTION

A reinstated (ex-military) employee with mandatory restoration rights has an absolute right to retention in employee's job for six months or one year (except in case of a discharge for cause). Whether the period is six months or one year depends on the facts of employee's case. Veterans also have certain special rights in any reduction in force.

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10-5 EMPLOYEES ENTERING MILITARY SERVICE

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10-5.1 Exit Interview

All employees leaving for military service are to be interviewed by the veterans' counselor or certain other supervisory personnel at FBIHQ or by SAC in field whether or not they possess mandatory military reinstatement rights. Bureau's continuing interest in them is to be pointed out. It is to be made clear to them whether or not they possess reinstatement rights. FD-333 should be executed on those interviewed and forwarded to FBIHQ, along with letter of resignation and exit interview, when latter documents are required.

Whether employees possess reinstatement rights depends on the nature of their appointment in Bureau. If it is a permanent or temporary indefinite appointment, they have such rights and if otherwise they do not. Almost all Bureau employees possess either permanent or temporary indefinite appointments.

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10-5.2 Disposition of Government Property and Personnel File

Field personnel file should be retained in field office. Government property should be collected by the SAC or FBIHQ supervisor at time the separation or furlough commences. For those departing on military furlough, FBIHQ supervisor should see that property is secured and returned to Property Procurement and Management Section of the Finance Division where it will be retained and may be reissued upon employee's return to duty. In field, property should be retained in field office and reissued upon employee's return to duty.

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10-5.3 Separation

(1) An employee leaving to enter military service for more than three months' military duty submits a resignation. The reinstatement rights for such an employee are the same as those of an employee placed on military furlough. (See 10-5.4.)

(2) Employee should be given a copy of Form FD-183 (Reemployment Rights Following Military Service) during the interview recorded on FD-333. In that interview employee should be advised to forward evidence of employee's entrance into military service. A letter to FBIHQ giving date active military duty began and employee's military address will suffice except in those cases in which an employee, whether permanent or temporary indefinite, is entering on active duty as a result of membership in a reserve component, including National Guard. Employees who qualify are entitled to military leave for active duty or engaging in field or coast defense training. This military leave accrues for an employee in addition to annual leave at time rate of 15 days per fiscal year and, to the extent that it is not used in a fiscal year, accumulates for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year. That is, up to 15 days of accrued, unused military leave may be carried over into the succeeding fiscal year for use during that year. No more than 15 days of accrued, unused military leave may be carried over into any fiscal year. Active reserve duty (including National Guard) must have been ordered prior to employee's ceasing active duty in Bureau for employee to qualify for payment, and must be supported by a copy of orders for such active duty. In addition, FBIHQ must be in receipt of a statement from former employee's military commanding officer certifying to completion of 15 days or less of active duty, depending on amount of military leave to which employee is entitled. As soon as certification is received, payment will be made.

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| 10-5.4 Furlough |(See MAOP, Part 1, 10-5.5.2(5); MIOG, Part 1, 67-3.9.)|

An employee with reinstatement rights leaving for three months or less of service may be placed on military furlough. Material contained in item 10-5.3, above, also applies to employee.

Only difference in this case is that employee does not resign, but instead directs a communication to employee's division head setting out employee's military service plans and requesting military furlough of specific duration.

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10-5.5 Reinstatement

**EffDte: 01/15/1982 MCRT#: 0 Div: D3 Cav: SecCls:

10-5.5.1 Requirements for Reinstatement

(1) |Subject to the conditions as set forth below, if|an employee had a permanent or temporary indefinite appointment and leaves|the|Bureau to enter military service of the United States and so enters without undue delay, remaining in service for a period not exceeding four years (exclusive of any involuntary extension), or in some cases, as long as five years (plus additional service imposed pursuant to law) employee has a right to be restored in the position he/she left or one like it, unless such position is held by an employee with greater rights, or if employee should incur a disabling physical condition during his/her military service, in a position as nearly similar to employee's former one as employee's physical condition permits. Employee is entitled to within-grade raises and to receive consideration for promotion in his/her absence to any vacancies for which qualified. In some cases an employee can serve in the military as much as five years (plus additional service imposed pursuant to law) and still retain his/her reinstatement rights. In each case in which service exceeds four years, circumstances will determine whether employee still possesses such rights.

(2) To be entitled to reemployment rights, an employee

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| must complete his/her military service honorably and receive a
| certificate to that effect, be|qualified|to perform the duties
| of|his/her|former position|(or an equivalent one),|and apply for
| reinstatement within the prescribed period. |If an employee is not
| physically qualified to perform the duties of the former position by
| reason of a disability sustained during military service, that
| employee has a right to be placed in another position for which he/she
| is qualified that will provide the employee with the same seniority,
| status, and pay, or the nearest approximation consistent with the
| circumstances in each case.|

| (3) |To be qualified for employment he/she must have a top
| secret clearance since all positions within the FBI are at the
| special-sensitive level. A security clearance is a necessary
| qualification for reemployment and that it may be necessary to conduct
| an updated background investigation which will serve as a basis for
| determining whether the veteran who is applying for reinstatement
| should be granted a security clearance.|

| (4) | Enlistee must apply for reinstatement rights within
| 90 days after military separation unless he/she is hospitalized at
| separation, in which case reinstatement rights are extended for period
| of hospitalization but not to exceed one year, plus 90 days.

| (5) | An employee who went into service as a reservist or
| National Guardsman for an initial period of three to six months'
| active duty for training must apply within 31 days after separation
| unless hospitalized, in which case employee must apply within 31 days
| after discharge from hospitalization incident to that active duty for
| training or one year after release from that training, whichever is
| earlier. In certain exceptional cases involving initial period of
| active duty for training of less than three months, employee may also
| have 31 days after release from active duty to exercise reinstatement
| rights. Employee will be appropriately notified at time he/she
| leaves. If employee's service as a reservist or National Guardsman is
| for active duty for an indefinite period, exceeding six months,
| employee has a period of 90 days to apply for reinstatement.

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10-5.5.2 Procedures for Reinstatement

| (1) A veteran ex-employee with reinstatement rights at
| FBIHQ who calls at a field office to arrange for return to duty should
| be advised that his/her request will be transmitted immediately to
| FBIHQ and FBIHQ will then get in touch with him/her. Office should
| notify FBIHQ of the matter by Form FD-435. Form FD-435 should, if
| possible, include date employee desires to|return; place,|and type of
| separation; rank, social security and/or serial number, and branch of
| service; whether on interview employee admitted incurring disciplinary
| measures or physical disabilities in military service; whether on

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interview employee admitted employee or any relatives have been in difficulty with civil authorities since employee left Bureau. Pertinent details should be included. An executed Form FD-224 and, if available, a copy of the honorable separation should be attached to Form FD-435. If, having no copy of employee's military separation physical examination report, employee requests the office to arrange a reinstatement physical examination, office should make necessary arrangements. A physical examination report must be submitted, but this can follow employee's reinstatement. |(See (4) and (5).)|

(2) Appropriate leads to check his/her military service record should be set out immediately. If employee's discharge was recent, the records are probably at the military installation where

employee was discharged. Otherwise, refer to MIOG, Part II, Section 19, for location of military records. Appropriate intelligence agency should also be requested to check records applicable.

(3) If the veteran ex-employee with reinstatement rights appears at the same field office where he/she formerly served to arrange for restoration to duty there, |office| should send Form FD-435 to FBIHQ containing the same information described in 10-5.5.2 (1), above, indicating what steps are being taken to complete reinstatement procedure, such as arranging for a physical examination, checking military records, etc. Form FD-435 should also state grade and position in which it is recommended employee be reinstated.

If there is any question as to whether employee meets reinstatement requirements, employee should be advised office will resolve it by contacting FBIHQ and employee will be informed of the decision.

(4) If the veteran ex-employee requests reinstatement at a different field office than the one to which employee has reported for information and guidance, FBIHQ should be informed by Form FD-435 containing the same kind of information indicated in 10-5.5.2 (1), above. FBIHQ will take appropriate action. It should be noted Bureau policy is to reinstate employee in the office he/she left to enter military service.

(5) Employees who were placed on military furlough (10-5.4 above) can return to work as soon after their military duty is over as they wish; the normal restoration processing can be completed subsequently. FBIHQ must be advised of results of interview outlined in 10-5.5.2 (1) above. FD-224, a copy of employee's honorable separation, and physical examination report must be forwarded as soon as possible. FBIHQ must be separately advised upon return to duty. Usual entry-on-duty forms are not necessary and Government property should be immediately reissued to employee.

(6) Any veteran ex-employee who resigned from Bureau to enter military service and subsequently returns to duty must execute usual entry-on-duty forms, including statement of Federal Service Form, FD-195. Such forms should be forwarded to FBIHQ immediately to facilitate placing employee on payroll. As explained above, they are not necessary in military furlough cases, as furloughed employees were never removed from our rolls.

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(7) If any veteran ex-employee orally advises that he/she does not desire to exercise reinstatement rights or does not desire to return to duty from military furlough, this waiver should be secured from employee in writing.

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10-5.5.3 Rejectees

In order for an employee to exercise reinstatement rights who has such rights and is rejected for military service, employee must, according to law, report back for work at beginning of his/her next regularly scheduled working period after expiration of last calendar day necessary to travel from place of rejection to place of employment following employee's rejection or within a reasonable time thereafter if delayed return is due to factors beyond employee's control. Failure to so report shall make employee subject to administrative action as an unauthorized absentee. Rejectees reporting back for work should be interviewed and reason for rejection determined. Advise FBIHQ and check appropriate military service installation where rejected to confirm reason for rejection and advise FBIHQ of results. Should any employee delay his/her return so that employee would be considered an unauthorized absentee, submit employee's explanation for delay, along with your recommendation as to any administrative action.

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| 10-6 ADVERSE PERSONNEL ACTIONS|(See MAOP, Part I, 10-7.)|

| In general, no veteran who|is "preference eligible"
| and|who has|completed one year of current continuous service in the
| same or similar positions within an agency|may be discharged,
| suspended for more than 14 days, or involuntarily reduced in|grade or
| pay|without being given 30|days' advance|written notice
| stating|specific reasons for the proposed action. A|further
| discussion of this matter,|including the meaning of the term
| "preference eligible,"|is found in|MAOP,|Part I,|13-10.|

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| 10-7 EXCEPTIONS TO ELIGIBILITY FOR PREFERENCE RIGHTS

| If|a preference-eligible employee|has not completed one
| year|of current continuous service in the same or similar positions
| within the agency, the employee|does not possess rights mentioned in
| 10-6 above. None of|the|benefits of|the|Veterans Readjustment
Benefits Act of 1966, Cold War GI Bill, accrue to employees who served
under Title 10, United States Code (USC), Section 511(d), in the
National Guard or Reserve (so called six-monthers). Preference
claimed on the basis of a service connected disability requires
| appropriate official proof. |(See MAOP, Part I, 13-10.)|

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10-8 ADVANCEMENT

As already mentioned above, a permanent or temporary indefinite employee must be considered for promotion during employee's absence in military service. It is not mandatory that employee be promoted but only that employee be considered. If employee is not promoted, Bureau's policy is to accelerate employee's progress as much as possible, consistent with its vacancies and employee's qualifications, upon employee's return.

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10-9 MILITARY LEAVE

(1) A support employee, veteran or not, who is a member of a reserve component of Armed Forces (including National Guard) is entitled to military leave for active duty or engaging in field or coast defense training. This military leave accrues for an employee in addition to annual leave at the rate of 15 days per fiscal year and, to the extent that it is not used in a fiscal year, accumulates for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year. That is, up to 15 days of accrued, unused military leave may be carried over into any fiscal year. Employee can also be granted up to 22 workdays of military leave per calendar year for Federal or state duty performed to provide military aid for enforcement of the law; the coverage of this provision includes the District of Columbia National Guard. Military pay received for this kind of duty is deducted from federal civilian salary for same period. Therefore, upon return to work employee must submit a certified

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statement showing amount (other than a travel, transportation, or per diem allowance) employee received for military service so that employee's salary may be reduced accordingly. District of Columbia National Guardsmen may be granted additional military leave with pay for parades, encampments, and certain other duty ordered by commanding general.

(2) Part-time career employees may be granted military leave.

(3) Members of Reserve Officers Training Corps (ROTC) are not eligible for military leave with pay for training purposes but may be granted annual leave or leave without pay. (See the LEAVE | POLICY MANUAL.)

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10-10 OTHER RIGHTS

(1) There are certain other rights employees may have based upon their military service. Examples are home loan guaranty provisions of Servicemen's Readjustment Act of 1944 (GI Bill) and under Korea GI Bill. Under Veterans Readjustment Benefits Act of 1966, Cold War GI Bill, term "veteran" is not always defined same way for each benefit, but generally means an individual with more than 180 days of active military duty, any part of which occurred after 1-31-55. Definition excludes those whose service was in National Guard or military reserve programs under Title 10, USC, Section 511 (d), entailing six months or less of active duty for training within a total six-year reserve commitment. The 1966 act provides such benefits as education aid, home loan guaranty, medical care, and veterans' preference.

(2) Above rights are type administered primarily by Department of Veterans Affairs which has local offices throughout Nation.

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10-11 MILITARY RESERVE MATTERS (See MAOP, Part 1, 1-17.)

(1) The Bureau maintains records on employees who are members of military reserve (including National Guard) units. Information as to any change in reserve status of an employee must be promptly forwarded to FBIHQ. A change in reserve status includes such matters as being discharged from a reserve unit, being promoted, or

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being transferred from the Ready Reserve to the Standby Reserve. Form FD-295 is to be used for this purpose and should be sent to FBIHQ by routing slip. In addition, routing slips should be used to keep FBIHQ advised of any pending action, such as intended contacts with reserve units for information. Routing slips should be marked for attention of the Administrative Services Division. Whenever a member of the Standby Reserve is to be ordered involuntarily to active duty in time of war or national emergency declared by the Congress or whenever otherwise authorized by law, the reservist would be ordered by his/her branch of the Armed Forces to report to his/her unit for duty. Should any Agent or key support personnel be so ordered as a member of the Standby Reserve, FBIHQ is to be immediately advised so appropriate employment data may be furnished.

(2) Special Agents occupy Key Federal Employee positions and may not belong to the Ready Reserve. However, Agents are permitted to belong to the Standby Reserve. As a condition of employment, new Agents who are members of the Ready Reserve must either transfer to the Standby Reserve or separate entirely from military reserve. Thereafter, Agents may not rejoin Ready Reserve units. Agents should also keep in mind that Individual Mobilization Augmentee (IMA) billets and all National Guard billets (including inactive National Guard billets) are Ready Reserve positions for which Agents are ineligible.

(a) Agents who are members of the Standby Reserve may volunteer for active duty for training (ADT) and be granted Military Leave. Any Agent in the Standby Reserve who seeks to volunteer for ADT during duty time or inactive duty training (i.e., weekend drills) during off-duty time must submit a request for approval to his/her SAC or division head at least 30 days in advance. Such a request may be disapproved if, in the view of the SAC or division head, granting the request would unreasonably and adversely affect Bureau operations. A denial of a request for reserve training participation may be appealed to the Deputy Director.

(b) Employees approved for ADT are entitled to up to 15 calendar days of Military Leave per year (but no more than 30 days of accrued Military Leave) while continuously receiving FBI pay. All documentation of Military Leave, including copies of orders and certification showing dates of duty actually performed, must be completed and submitted to the Payroll Administration and Processing Unit, Finance Division. Failure to submit proper documentation will result in all absences from work for ADT being charged to Annual Leave or Leave Without Pay.

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